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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,225	07/14/2003	**Donald J. Stavely**	200308682-1	7001

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EXAMINER	
WIENER, ERIC A	
ART UNIT	**PAPER NUMBER**
2179	

NOTIFICATION DATE	DELIVERY MODE
09/26/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/619,225	STAVELY ET AL.	
	Examiner	Art Unit	
	Eric Wiener	2179	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 August 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-34* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-34* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This action is responsive to the following communications: Amendment filed on 8/9/2008.

This action is made final.

2. Claims 1 – 34 are pending. Claims 1, 12, and 23 are the independent claims. Claims 1, 12, and 23 are the amended claims. Claims 1 – 34 have been rejected by the Examiner.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 1 recites the limitation "said electronic image that is in the user's possession" in line 18. There is insufficient antecedent basis for this limitation in the claim. This renders the claim indefinite and, as such, claim 1 is rejected under 35 U.S.C. 112, paragraph two.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 1 – 4, 8 – 14, 16 – 18, 21 – 26, 29 – 31, and 33 – 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheatle et al. (US 2002/0140988 A1) in view of MacQueen et al. (US 6,871,200 B2).

As per independent claim 1, Cheatle discloses *a method for delivering information comprising:*

- *prominently displaying in a physical setting a unique human-recognizable logo having sets of coordinated color-sets for the logo, including a border and a background* ([0030]);
- *digitally capturing, by a user, an electronic image of the unique human-recognizable logo as a graphic symbol in the physical setting* ([0019] – [0020] and [0033]), wherein "resulting electronic image" means that an electronic image is digitally captured;
- *identifying the graphic symbol within the electronic image* ([0030] – [0031]);
- *communicating said graphic symbol to a database of existing symbols* ([0034]);

- *matching said graphic symbol to one of said existing symbols* ([0034] – [0035]);
- *designating, by the owner of the logo, information associated with the graphic symbol* ([0039]); *and*
- *transmitting the information associated with said graphic symbol back to said electronic image that is in the user's possession, wherein a new updated version of the electronic image with the information associated with the graphic symbol is presented to the user* ([0035] – [0037] and [0043]).

Cheatle does not explicitly disclose tracking legal ownership of the unique human-recognizable logo by registering a visually unique human-recognizable logo with an official agency, wherein before registering the visually unique human-recognizable logo, a determination is made to confirm a predetermined difference between previous registrations to avoid misrecognition and intentional tampering.

However, in an analogous art, MacQueen discloses *tracking legal ownership of the unique human-recognizable logo by registering a visually unique human-recognizable logo with an official agency, wherein before registering the visually unique human-recognizable logo, a determination is made to confirm a predetermined difference between previous registrations to avoid misrecognition and intentional tampering* (column 2, line 1 – column 3, line 21), wherein it is obvious that the comparison step would be performed in order to validate a registration so as to determine if the logo is already registered or owned.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to incorporate the teaching of MacQueen with the method of Cheatle, because both inventions are for receiving information pertaining to a recognized logo. In addition, Cheatle's

invention may generate a link to the site of the logo owner (Cheatle, [0039]), wherein since it is disclosed that the logo has a "logo owner," and since, by law, if one owns something they are considered the "legal "owner," it would therefore be obvious that Cheatle would want to track legal ownership of said logo through such known means as disclosed by MacQueen.

As per independent claim 12, Cheatle discloses *an information management system comprising:*

- *a unique human-recognizable logo having sets of coordinated color-sets for the logo, including a border and a background being prominently displayed in a physical setting* ([0030]);
- *an electronic image of the unique human-recognizable logo captured by a user with a digital camera and represented by a unique symbol* ([0019] – [0020] and [0033]), wherein "resulting electronic image" means that an electronic image is digitally captured;
- *client-side logic executable by a client processor for detecting a unique symbol displayed within the visual image* ([0030] – [0031]); *and*
- *server-side logic executable by a server for matching said unique symbol to at least one of a plurality of stored symbols and returning data corresponding to said matched unique symbol to said client-side logic,* ([0034] – [0035] and [0066]), *and*
- *designating, by the owner of the logo, marketing information associated with the graphic symbol, including World Wide Web hyperlinks to marketing material and business contact information* ([0035] – [0039], and [0043]), *and online interactive maps with driving directions to the business* ([0006]), *and*

- *wherein, a new updated version of the electronic image with the information associated with the graphic symbol is presented to the user* ([0043]).

Cheatle does not explicitly disclose tracking legal ownership of the unique human-recognizable logo by registering a visually unique human-recognizable logo with an official agency, wherein before registering the visually unique human-recognizable logo, a determination is made to confirm a predetermined difference between previous registrations to avoid misrecognition and intentional tampering.

However, taking into account the rejection of claim 1, *supra*, MacQueen discloses this feature, wherein it would be obvious to incorporate MacQueen into Cheatle as disclosed in the rejection of claim 1, *supra*.

As per independent claim 23, Cheatle discloses *a method for automatically distributing information to a consumer comprising:*

- *prominently displaying in a physical setting a unique human-recognizable logo having sets of coordinated color-sets for the logo, including a border and a background* ([0030]);
- *digitally capturing, by a user, an electronic image of the unique human-recognizable logo as a graphic symbol in the physical setting* ([0019] – [0020] and [0033]), wherein "resulting electronic image" means that an electronic image is digitally captured;
- *registering the unique graphic symbol from a vendor, designating, by the owner of the logo, information associated with the graphic symbol, and storing information from said vendor related to said unique graphic symbol in a database* ([0035];

[0036], lines 1 – 4; and [0039]), wherein the fact that there is a "tag" associated with a recognized image object has been interpreted to mean that the unique object has been registered with information stored in said tag;

- *receiving the electronic image of said unique graphic symbol automatically acquired from a picture provided by said consumer* ([0030] – [0031]);
- *searching said database to match said image to said unique graphic symbol* ([0034] – [0035]); and
- *transmitting said information related to said unique graphic symbol back to said picture that is in the user's possession, when a match is found, wherein a new updated version of the electronic image with the information associated with the graphic symbol is presented to the user* ([0035] – [0037] and [0043]).

Cheatle does not explicitly disclose tracking legal ownership of the unique human-recognizable logo by registering a visually unique human-recognizable logo with an official agency, wherein before registering the visually unique human-recognizable logo, a determination is made to confirm a predetermined difference between previous registrations to avoid misrecognition and intentional tampering.

However, taking into account the rejection of claim 1, *supra*, MacQueen discloses this feature, wherein it would be obvious to incorporate MacQueen into Cheatle as disclosed in the rejection of claim 1, *supra*.

As per claims 2, 13, and 25; and taking into account the rejection of claims 1, 12, and 23; respectively; Cheatle further discloses that *said electronic image is obtained by a computer readable medium* ([0002] and [0010]) *or an image capture device* ([0017]).

As per claims 3 and 14, and taking into account the rejection of claims 1 and 12, respectively, Cheatle further discloses that *said identifying comprises automatically analyzing visual data of said electronic image and detecting a characteristic pattern in said visual data indicative of said graphic symbol* ([0030] – [0031]).

As per claim 4, and taking into account the rejection of claim 3, Cheatle further discloses that *said characteristic pattern comprises at least one of:*

- *a size* ([0030]), wherein size is a characteristic of form;
- *a shape* ([0030]);
- *a set of colors* ([0030] and [0031], lines 1 – 3), wherein a set of colors is a type of encoded pattern that would, for example, distinguish similar recognizable logos.

As per claims 8 and 29, and taking into account the rejection of claims 1 and 23, respectively, Cheatle further discloses *searching said database for said information corresponding to said match* ([0034]) *and retrieving said information from said database associated with said match* ([0035], lines 5 – 9).

As per claims 9 and 33, and taking into account the rejection of claims 1 and 23, respectively, Cheatle further discloses *installing an access point to said transmitted information associated with said graphic symbol into said electronic image and inserting an interface object in said picture, wherein said interface object provides said consumer access to said transmitted information* ([0041] – [0042]).

As per claims 10, 17, and 34; and taking into account the rejection of claims 9, 16, and 33; respectively; Cheatle further discloses that *said access point comprises one or more of:*

- *a hyperlink or a web URL* ([0034], lines 1 – 4);

- *an applet or application shortcut* ([0035], lines 5 – 9 and [0038]), wherein the linking to a web camera is essentially a shortcut to a web camera applet or application;
- *a user-selectable object* ([0042]);
- *a pop-up information box* ([0039]), wherein it has been interpreted that the automatically generated link to a site is a pop-up information box of the site;

As per claims 11, 22, and 30; and taking into account the rejection of claims 1, 12, and 23; respectively; Cheatle further discloses that *said information comprises one or more of:*

- *metadata* ([0037]);
- *HTML tags or URL address* ([0034], lines 1 – 4);
- *computer logic* ([0037]), wherein computer logic is inherent in the associated information;
- *an interactive multimedia file* ([0038]).

As per claim 16, and taking into account the rejection of claim 12, Cheatle further discloses that *said client-side logic comprises image logic for incorporating said returned data into said visual image* ([0033] – [0034]) *and a graphical user interface tool for inserting a user access point to said returned data* ([0044], lines 8 – 11).

As per claim 18, and taking into account the rejection of claim 12, Cheatle further discloses *a client communication interface for transmitting said unique symbol to said server and a server communication interface for receiving said unique symbol from said client and transmitting said data, wherein said client communication interface receives said data transmitted by said server* ([0065] – [0066]).

As per claim 21, and taking into account the rejection of claim 12, Cheatle further discloses that *said client comprises one or more of:*

- *an image capture device* ([0017]);
- *a personal computer* ([0002] and [0010]);
- *an application server in communication with one of said image capture device and said personal computer* ([0065] – [0066]).

As per claim 24, and taking into account the rejection of claim 23, Cheatle further discloses that *said image is automatically acquired at a device of said consumer* ([0019], lines 1 – 2).

As per claim 26, and taking into account the rejection of claim 23, Cheatle further discloses *creating said unique graphic symbol using a characteristic pattern, wherein said characteristic pattern comprises at least one: a size; a shape; and a color scheme* ([0042]), wherein icons and logos are unique graphic symbols of characteristic patterns comprising sizes, shapes, and colors and it is obvious that the unique icons or logos would be created by the respective vendor or logo owner before they are to be used.

As per claim 31, and taking into account the rejection of claim 23, Cheatle further discloses *extracting said image of said unique graphic symbol from said picture using code accessible by said consumer* ([0056], lines 1 – 8).

8. Claims 5 – 7, 15, 19, 20 27, 28 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheatle et al. (US 2002/0140988 A1) and MacQueen et al. (US 6,871,200 B2) in view of Bollman et al. (US 5,978,519).

As per claims 5, 15, and 32; Cheatle and MacQueen sufficiently disclose the information management systems and methods of claims 1, 12, and 31; respectively. However, Cheatle and MacQueen do not explicitly disclose an application and method for cropping said graphic symbol from said electronic image prior to said communicating.

Nevertheless, in an analogous art, Bollman discloses *an application and method for cropping a graphic symbol from an electronic image* (column 1, lines 54 – 58).

Thus, it would be obvious to incorporate Bollman's teaching into the invention of Cheatle and MacQueen to automatically crop a graphic symbol from an electronic image prior to use of the symbol, because Cheatle's invention exhibits characteristics of cropping a symbol from an image when the symbol is to be analyzed [0056, lines 1 – 8]. The cropping would be an innate step to help "to identify areas of bar code and to provide corresponding output," as disclosed by Cheatle. In addition, in order to identify the specific area of the barcode or icon, the image coordinates would have to be mapped in a similar fashion as would be performed by cropping the image. Therefore, cropping of the desired areas of the image would assist in determining the exact location of the symbol and would assist in the ability to eliminate noise and enhance the visibility of the symbol for communicating and matching in the database. Also, it would be beneficial to automatically crop the symbol in order to expedite the process (Bollman, column 1, lines 48 – 50).

As per claims 6 and 27, Cheatle and MacQueen disclose the methods of claims 1 and 23, respectively. However, Cheatle and MacQueen do not explicitly disclose checking said communicated graphic symbol for visual anomalies or distortions and altering said visual anomalies prior to said searching or matching.

Nevertheless, in an analogous art, Bollman discloses *checking a graphic symbol for visual anomalies or distortions; and altering said visual anomalies or distortions* (column 2, lines 1 – 5 and column 4, lines 60 – 64).

Thus, it would be obvious to incorporate Bollman's teaching into the invention of Cheatle and MacQueen to check for and alter any visual anomalies or distortions, because the use of an image analyzer of Cheatle's invention to identify the recognizable objects of an image would require an ability to interpret said recognizable objects in light of visual anomalies, otherwise the analyzer could not function correctly to identify objects, and the entire invention would be useless. Thus, in order to identify objects in images that include visual anomalies or distortions, one would want to enhance the image to eliminate noise and other anomalies and distortions that would interfere with the matching.

As per claims 7 and 28, and taking into account the rejection of claims 6 and 27, respectively, Bollman further discloses *checking a graphic object of an image for visual anomalies and altering said visual anomalies comprising one or more of:*

- *distortion and noise* (column 2, lines 1 – 5 and column 4, lines 60 – 64), wherein image distortion is attributed to noise and elimination of said noise and effective image enhancement alters the distortion*;*
- *blur and contrast* (column 2, lines 1 – 5), wherein the process of image enhancement effectively includes the improvement of the image due to blur or contrast;
- *brightness* (column 2, lines 1 – 5 and column 3, lines 35 – 43)*;*
- *perspective, orientation, and size* (column 2, lines 1 – 5), wherein adjusting the dimensions would alter the perspective, orientation, or size.

As per claim 19, Cheatle and MacQueen disclose the information management system of claim 12. In addition Cheatle discloses *a search application for searching said plurality of stored symbols for a match and an error checking application for checking for errors during execution of said search application* ([0034]), where it is interpreted that the fact that the database is interrogated during the searching means that the process would check for the validity, and thus errors, of the potential matches.

However, Cheatle and MacQueen do not explicitly disclose a graphics application for repairing defects in said detected unique symbol.

Nevertheless, in an analogous art, Bollman discloses *a graphics application for repairing defects in a detected graphic object of an image* (column 2, lines 1 – 5 and column 4, lines 60 – 64).

Thus, it would be obvious to incorporate Bollman's teaching into the invention of Cheatle and MacQueen for the same reasons as disclosed in the rejection of claims 6 and 27 *supra*.

As per claim 20, and taking into account the rejection of claim 19, Cheatle further discloses *an image manager for managing execution of said server-side logic on said server* ([0065] – [0066]).

Response to Arguments

9. Applicant's arguments filed on 8/9/2008 have been fully considered, but they are not persuasive.

10. The Applicant has argued that the combined references do not make a predetermination of registration to avoid misrecognition and intentional tampering.

In response to this argument, the Examiner respectfully disagrees. Please refer to MacQueen, column 4, lines 19 – 21, wherein it is disclosed an intention to monitor and prevent unauthorized usage, further wherein it has been determined that the prevention of unauthorized usage sufficiently serves to prevent intentional tampering and possible misrecognition.

11. The Applicant has argued that the combined references do not disclose, teach, or suggest designating, by the legal owner of the logo, information associated with the graphic symbol, transmitting the information associated with said graphic symbol back to the electronic image that is in the user's possession, wherein a new updated version with the information associated with the graphic symbol is presented to the user.

In response to this argument, the Examiner respectfully disagrees. Please refer to the rejection of presently amended claim 1, *supra*, and also to [0035] – [0039] of Cheatle, which disclose designating, by the legal owner of the logo, information associated with the graphic symbol, transmitting the information associated with said graphic symbol back to the electronic image that is in the user's possession. Furthermore, please refer to [0043] of Cheatle, which discloses a new updated version with the information associated with the graphic symbol is presented to the user.

12. The Applicant has argued that the combined references do not disclose, teach, or suggest designating, by the legal owner of the logo, marketing information associated with the graphic

symbol, including World Wide Web hyperlinks to marketing material, business contact information, and online interactive maps with driving directions to the business.

In response to this argument, the Examiner respectfully disagrees. Please refer to the rejection of presently amended claim 12, *supra*, and also to [0037] – [0039] of Cheatle, which discloses designating, by the legal owner of the logo, marketing information associated with the graphic symbol, including World Wide Web hyperlinks to marketing material, business contact information. Furthermore, please refer to [0006] of Cheatle, wherein not only is it made obvious that location information from a global positioning system relating to a map would include interactive maps with driving directions to the business, but also the patents of US 6, 091,956 to Hollenberg, US 5,267,042 to Tsuchiya, and US 6,133,947 to Mikuni are incorporated by reference, wherein they sufficiently serve to disclose and make obvious the inclusion of online interactive maps with driving directions to the business.

Conclusion

13. It is noted that any citation to specific, pages, columns, lines, or figures in the prior art references and any interpretation of the references should not be considered to be limiting in any way. A reference is relevant for all it contains and may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art. In re Heck, 699 F.2d 1331, 1332-33,216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting In re Lemelson, 397 F.2d 1006,1009, 158 USPQ 275, 277 (CCPA 1968)).

14. The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure. The cited documents represent the general state of the art.

15. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric A. Wiener whose telephone number is 571-270-1401. The examiner can normally be reached on Monday through Thursday from 9am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo, can be reached on 571-272-4847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Eric A Wiener/
Examiner, Art Unit 2179

/Ba Huynh/
Primary Examiner, Art Unit 2179